

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MICHIGAN IMMIGRANT RIGHTS
CENTER, DR. GEOFFREY ALAN
BOYCE, DR. ELIZABETH OGLESBY,
and AMERICAN CIVIL LIBERTIES
UNION OF MICHIGAN

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY and UNITED
STATES CUSTOMS AND BORDER
PROTECTION,

Defendants.

Case No.: 16-cv-14192

Judge John Corbett O'Meara

Magistrate Judge Elizabeth A. Stafford

JOINT REPORT AND PROPOSED SCHEDULE

1. The parties in the above-captioned matter file this Joint Status Report and Proposed Schedule pursuant to this Court's August 4, 2017 Stipulated Order, which directed the parties to file a report indicating the status of the case and a proposed summary judgment briefing schedule.

2. On September 8, 2017, Plaintiffs submitted a letter to opposing counsel outlining their concerns regarding the draft *Vaughn* index, concerns with the thoroughness of Defendants' search, and concerns about redactions to documents. The intent of the letter was to narrow the disputed issues in the litigation.

3. The parties met and conferred by telephone on September 14, 2017, and discussed the disputed issues based on Plaintiffs' review of the draft *Vaughn* index. Defendants agreed to supplement their response to Plaintiffs' FOIA request, by releasing additional records, and to provide Plaintiffs a more detailed explanation of certain redactions by September 26, 2017. The parties then submitted a Joint Status Report on September 18, 2017, proposing that they needed time for follow-up production, and further discussions and negotiations.

4. On September 26, 2017 Defendants submitted a letter to opposing counsel in response to Plaintiffs' September 8, 2017 letter. This letter contained the additional information Defendants agreed to provide and released additional records, including a redacted Organizational Structure Chart of the Detroit Sector and the Law of Arrest, Search & Seizure Manual (M-69 manual), released in full.

5. On October 5, 2017 Defendants followed up their September 26, 2017 letter with a discretionary release of the SSM Station Threat Assessment FY 2012 and Annex B to Detroit Station Operation Implementation Plan. Both of these documents were redacted and were released in an exercise of discretion by the Defendants.

6. The parties met and conferred by telephone on Wednesday October 18, 2017, and had a productive discussion regarding adequacy of search issues. As promised, Defendants proposed additional searches that may be performed, and

provided a list of draft search terms for Category C documents. The parties believe that they are nearing an agreement on the adequacy of search issues, but will need to conduct further discussions to come to a final agreement. If an agreement is reached, it will take additional time to search for and produce additional documents. The parties believe that, if they can reach agreement concerning the search for Category C documents, the case should proceed to partial summary judgment briefing on the propriety of redactions to Category A and B documents. This would allow the searches for the 2017 FOIA Category C and D documents to proceed while the court resolves the legal issues related to Category A and B documents. The parties agree that this staggered approach will create efficiency here, because the Court's decision on the redactions to the Category A and Category B documents will inform the processing of similar information contained in the remaining Category C and D documents.

7. The parties believe that it would be premature to set a summary judgment briefing schedule until after they have had additional time to negotiate an agreement regarding the adequacy of the search. Accordingly, the parties propose submitting a Joint Status Report to the Court on November 29, 2017 following the parties' further negotiation and discussion of these issues. That status report will include a proposed briefing schedule for category A and B documents, if the parties can agree.

Dated: October 25, 2017

Respectfully Submitted,

Attorneys for Plaintiffs

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